United Nations CMW/C/VCT/QPR/1

# International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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**Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families**

## List of issues prior to submission of the initial report of Saint Vincent and the Grenadines*

## Section I

### A. General information

1. Please provide information on the domestic legal framework regarding the Convention, including:

(a) The rank of the Convention in national law and whether the Convention has direct effect or is part of the domestic law through implementing legislation;

(b) Information on the relevant national legislation of the State party regarding the protection of migrant workers and members of their families and on migration policies under the Convention;

(c) Measures taken by the State party to harmonize its legislation with the provisions of the Convention;

(d) The existence and scope of bilateral and multilateral agreements concluded with other countries pertaining to the rights of migrant workers and members of their families under the Convention, in particular with Canada and the United States of America and with States members of the European Union and Caribbean States. Please specify how these agreements protect migrant workers' rights and guarantees in transit and destination countries, in particular with respect to detention, repatriation, expulsion and family reunification procedures. Please provide information on the measures taken to strengthen the protection of overseas migrant workers who are nationals of Saint Vincent and the Grenadines, including by reviewing and amending the bilateral and multilateral agreements.

2. Please provide information on all policies and strategies relating to the rights of migrant workers and members of their families adopted by the State party, including information on specific, time-bound and measurable goals and targets to effectively monitor progress in the implementation of the rights of migrant workers and members of

* Adopted by the Committee at its twenty-fourth session (11-22 April 2016).

their families in the State party. Please also provide information on the resources allocated for implementation and the results obtained.

3. Please provide information on the government ministry or institution responsible for intergovernmental coordination on the implementation of the Convention in the State party, including information on the available staffing and other resources, as well as monitoring activities and follow-up procedures. Please also provide information on the mandate of that ministry or institution and the resources allocated to it for promoting, protecting and fulfilling the rights of migrant workers and members of their families under the Convention.

4. Please provide qualitative information and statistical data, disaggregated by sex, age, nationality and migration status, on labour migration flows to and from the State party, including returns, on other labour migration-related issues and on children left behind by migrant parents (see A/HRC/WG.6/11/VCT/2, para. 43). Please also provide qualitative and statistical data, or if precise data are not available, then studies or estimates, on migrant workers in an irregular situation in the State party and abroad, in particular those working in less regulated sectors such as agriculture, domestic service and fisheries. In addition, please provide information on measures taken by the State party to establish a coherent and comparable system of data collection on these issues, including measures aimed at making the information public.

5. Please provide information on whether the State party has established an independent mechanism, such as a national human rights institution, with the explicit mandate of independently monitoring the human rights situation in the State party, including in respect of the rights of all migrant workers and members of their families as set out under the Convention. Please also provide information on complaints mechanisms and other services, including helplines, offered by this institution and whether the institution visits detention centres for migrants and shelters housing migrants who are nationals of Saint Vincent and the Grenadines and who have been repatriated from countries of employment or transit. In addition, please provide information on the human, technical and financial resources made available to the institution and on the awareness-raising activities carried out by the State party among the general public and among migrant workers in both urban and rural areas, in particular on the services offered by the institution, including in respect of the right to file a complaint directly with the institution.

6. Please provide information on the steps taken by the State party to promote and publicize the Convention and to increase awareness and understanding of its provisions among the general public, migrant workers and members of their families, employers, teachers, health workers, the media, civil society representatives and government officials, including law enforcement officials and the judiciary, within the State party. With respect to migrant workers who are nationals of the State party working abroad, please also describe measures taken by the State party to promote training programmes on the human rights of migrant workers and their families, including on gender sensitivity and the rights of the child, for government staff providing legal and consular assistance to nationals of the State party abroad dealing with migration and related issues, including workplace abuse and exploitation and discrimination faced by migrant workers. Please also describe the measures taken to promote training programmes on the human rights of migrant workers or members of their families who have been arrested, held in prison or migration-related detention centres, placed in custody pending trial or detained in any other manner, subject to expulsion or repatriation.

7. Please provide information on the cooperation and interaction between the State party, civil society organizations and other social partners working on the rights of migrant workers in relation to the implementation of the Convention. Please indicate whether and

how representatives of civil society organizations and other stakeholders will be involved in preparing the replies to the present list of questions.

8. Please provide information on the existence of private employment agencies in the State party recruiting migrant workers to work abroad and on the laws, rules and regulations pertaining to private recruitment, in particular:

(a) Measures taken to provide information and training to migrant workers on their rights and obligations and on how to protect themselves against abusive employment situations;

(b) Whether private recruitment and placement agencies in the State party assume joint and solidary liability with the overseas employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including in respect of wages, disability compensation, repatriation and death, including the repatriation of the bodies of deceased migrant workers;

(c) Information relating to the issuance and renewal of licences of such employment agencies;

(d) Information on complaints against agencies and inspections, as well as penalties and sanctions for non-compliance;

(e) Measures taken by the State party to strengthen mechanisms to regulate and control private employment agencies and to avoid situations where such agencies act as intermediaries for abusive foreign recruiters.

## B. Information relating to the articles of the Convention

### 1. General principles

9. Please indicate whether the Convention has been directly applied by officials in the administration and whether it has been invoked directly before the courts. If so, please provide examples. Please provide information on:

(a) The judicial and administrative entities competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation;

(b) The number and type of complaints examined by such entities in the past five years and their outcome, disaggregated by sex;

(c) Whether legal assistance was provided;

(d) Any redress, including compensation, provided to the victims of such violations;

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

### 2. Part II of the Convention

#### Article 7

10. The Committee received information according to which the general prohibition of discrimination under article 13 (4) (b) of the Constitution is not applicable to non-citizens. It also notes the lack of provisions specifically prohibiting discrimination in employment and occupation. Please indicate whether any steps have been taken to review national legislation, in particular the Constitution of 1979 and relevant labour laws, to ensure that all

migrant workers and members of their families enjoy the rights provided for in the Convention without distinction of any kind and whether the legislation covers all the prohibited grounds of discrimination enumerated in the Convention (arts. 1 (1) and 7), including sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status and birth or other status. Please provide information on all the measures taken by the State party to ensure non-discrimination, both in law and in practice. Please also provide information on whether migrant workers and members of their families, in both regular or irregular situations, have access to social services on an equal basis with nationals of the State Party.

11. Please inform the Committee about any cases identified in the State party of racism and xenophobia, discrimination, ill-treatment and violence directed at migrant workers and members of their families, and provide information about normative, institutional and procedural measures adopted by the State party to prevent and combat all forms of racism, xenophobia, discrimination, ill-treatment and violence aimed at protecting the rights of victims, including their right to access to justice. Please include quantitative and qualitative information on the types of discrimination and xenophobic cases identified in the State party.

## 3. Part III of the Convention

### Articles 8-15

12. Please provide information on any cases identified in the State party of exploitation of migrant workers and members of their families, in both regular and irregular situations, in particular those working in agriculture, domestic work and fisheries. Please also provide information on any cases identified in the State party of domestic servitude, forced labour and commercial sexual exploitation involving migrant workers, in particular women and children, especially in the context of sex tourism, and on measures to prevent and combat these phenomena. In addition, please provide information on the measures taken to bring national legislation into compliance with the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), and the ILO Abolition of Forced Labour Convention, 1957 (No. 105).

13. Noting that information received by the Committee indicates that the existing legislation on child labour is outdated and does not efficiently protect children from harmful work, please indicate the measures taken by the State party to ensure that the rights of migrant children, in particular those who are unaccompanied, those in an irregular situation and those transiting through the State party, are respected and that migrant children are protected from all forms of exploitation. Please indicate the measures taken or envisaged by the State party to protect children against the worst forms of labour, including through the amendment of the Employment of Women, Young Persons and Children Act, the implementation of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), and the strengthening of the labour inspection system.

### Articles 16-22

14. Please describe the due process safeguards, including access to a lawyer and a translator and adequate access to medical care, that exist in situations of investigation, arrest, detention and expulsion of migrant workers and members of their families for criminal offences and administrative infractions, including immigration-related matters. Please also indicate measures taken to ensure that the obligation contained in article 16 (7) of the Convention on contact with consular or diplomatic authorities of the State of origin of detained migrant workers or members of their families is given effect in law and in practice.

15. Please indicate the legislative and other measures that have been taken by the State Party to ensure the right to liberty of migrant workers and their families in the context of migration-related administrative procedures, including in respect of entry, residence and expulsion. Please provide information, including statistical data, on alternatives to detention for immigration-related matters in the State party. Please indicate if the State party detains migrant workers and members of their families for immigration-related matters. If so, please provide detailed information on immigration detention centres, conditions of detention for migrant workers and members of their families and efforts to improve these conditions. Please also indicate which authorities are responsible for the management of immigration detention facilities. Please also include information on whether:

(a) Persons detained for immigration reasons are held in separate facilities or together with convicted persons or persons awaiting trial;

(b) Women detained for immigration reasons are held separately from men who are not family members or partners, and are supervised by female personnel;

(c) Specific alternatives to detention exist for unaccompanied children and families with children;

(d) Unaccompanied children and families with children can be detained for immigration-related matters and, if so, please provide detailed information on the facilities where they are detained and the conditions of such facilities, including in respect of child-protection measures and the authorities in charge of such facilities, as well as data disaggregated by sex, age, nationality and length of stay.

16. Please provide information on measures taken to ensure that, in criminal and administrative proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those in an irregular situation, are provided with legal assistance and interpretation, as necessary, and that they have access to information in a language they understand. Please also provide information on measures taken to ensure that migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by a competent authority, following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal. Please provide up-to-date information, including disaggregated statistical data, on migrant workers and their families who are undocumented or in an irregular situation and have been, or are in the process of being, expelled.

**Article 23**

17. Please provide detailed information on the roles of the State party's embassies, consulates and labour attachés in assisting and protecting migrant workers who are nationals of the State party working abroad, including those in an irregular situation, particularly in cases of abuse, arrest, detention and expulsion. Please also indicate what measures have been taken to protect and assist migrant workers who are nationals of Saint Vincent and the Grenadines and who reside in countries where the State party does not have diplomatic or consular representation. Please indicate whether migrant workers and members of their families in the State party have effective access to the protection and assistance of the consular or diplomatic authorities of their State of origin, in particular in cases of arrest, detention or expulsion. Please also indicate whether migrant workers who are deprived of their liberty are visited periodically and whether legal assistance is provided, including in expulsion cases. Please provide the Committee with some practical examples or real-life experiences.

**Articles 25-30**

18. Please indicate whether national labour laws and regulations relating to remuneration and conditions of work (for example, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of work contract and minimum wage) are in full compliance with the ILO Equal Remuneration Convention, 1951 (No. 100), and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and whether they apply on an equal basis to migrant workers, in both regular and irregular situations. Please also provide information on the measures taken by the State party to ensure that migrant workers enjoy equality of treatment with nationals in respect of protection from dismissal, unemployment benefits, access to public work schemes for combating unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity.

19. Please provide information on the measures taken to ensure that children of migrant workers have full access to education, regardless of their migration status. Please also provide information on the measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families have adequate access to basic services, such as medical care, including urgent medical care.

**Articles 31-33**

20. Please provide information on measures taken to ensure that, during and upon termination of their stay in the State party, migrant workers and members of their families have the right to transfer their earnings and savings, as well as their personal effects and belongings, from the State of employment to the State of origin. Please provide information on measures taken to facilitate the transfer of private funds, especially by reducing the cost of transactions.

21. Please provide information on pre-departure programmes for the State party's nationals considering emigration, including information on their rights and obligations in the State of employment. Please indicate which government institution is responsible for providing such information and if any coordinated policies, programmes or legislation have been developed to ensure transparency and accountability in this process. Please describe the measures taken to ensure that migrant workers arriving in, or preparing to come to, the State party have access to clear information on immigration procedures, including full information on the conditions applicable to their admission, stay and remunerated activities in which they may engage, as well as applicable laws and legislation in force.

## 4. Part IV of the Convention

**Article 40**

22. Please provide information on the measures taken to guarantee to migrant workers and members of their families the right to form, and be part of the leadership of, associations and trade unions, in accordance with article 40 of the Convention and parts I and II of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

**Articles 43-45**

23. Please provide information on the measures taken by the State party, including legislation, to ensure that migrant workers and members of their families enjoy equality of treatment with nationals regarding access to educational and vocational training institutions and services, health services, housing and cultural life. Please also provide information on

the measures taken by the State party to encourage the integration of children of migrant workers in the national education system.

24. Please provide information on measures taken to ensure the protection of the unity of the families of migrant workers and to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.

**Articles 46-48**

25. Please indicate whether prevailing laws and practices allow migrant workers, when they leave the territory of the State party, to continue receiving the social benefits and allowances for which they have paid contributions. Please also provide information on laws and policies in place to facilitate remittances and investment by nationals of Saint Vincent and the Grenadines working abroad, including through the reduction of regulatory and financial barriers. Please also indicate whether the State party has concluded bilateral or multilateral agreements permitting the transfer of family allowances by migrant workers living abroad to their children residing in the State party.

**Article 49**

26. Please provide information on whether separate authorizations to reside and to engage in employment are required under the national legislation. If so, please provide information on whether measures have been taken to ensure that migrant workers in the State party are allowed to retain their authorization of residence in the event of termination of their remunerated activity prior to the expiration of their work permit or similar authorization to avoid falling into an irregular situation. Please indicate whether measures have been taken to ensure that the authorization of residence is not withdrawn at least for a period corresponding to that during which the migrant worker may be entitled to unemployment benefits.

**Articles 51 and 52**

27. The Committee notes that, while migrant workers benefit from regional programmes that include free movement of skilled labour, they are still restricted to a few specific professions in the State party. Please provide additional information on these programmes and any other measures taken in the State party with a view to restricting access to certain job categories, and specify the types of activities involved. Please also state the conditions for obtaining authorization to engage in paid work, the types of work covered and the numbers of permits granted during the past five years, as well as the number of applications rejected and the reasons for rejection.

**Article 54**

28. Please provide information on measures taken by the State party to ensure that migrant workers enjoy equality of treatment with nationals of Saint Vincent and the Grenadines in respect of protection from dismissal, unemployment benefits, access to public work schemes for combating unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity.

## 5. Part V of the Convention

### Article 59

29. Please provide information on the measures taken by the State party to ensure that seasonal workers enjoy equal treatment as national workers, particularly in respect of remuneration and conditions of work, and to ensure systematic monitoring by the relevant authorities of employers' compliance with the applicable international labour standards. Please also provide information on the measures taken to ensure the rights enshrined in the Convention to seasonal and temporary migrant workers who are nationals of Saint Vincent and the Grenadines and who are in Canada and the United States in the context of the Temporary Foreign Worker Programme and Seasonal Agricultural Worker Programme.

## 6. Part VI of the Convention

### Article 64

30. Please provide information on the measures taken, including consultations and cooperation with other States, among others the States of the Caribbean Community, to promote sound, equitable and rights-based conditions in connection with the international migration of workers and members of their families, including through multilateral and bilateral agreements, policies and programmes. Please include information on how such measures have been mainstreamed in overall migration policies and programmes, and whether there has been a reduction in the number of violations of the rights of migrant workers and members of their families as a result of such measures.

31. Please provide information on measures taken to address the phenomenon of children left behind by parents going abroad for work, to ensure that they are appropriately provided and cared for.

32. Please describe the measures taken by the State party to address irregular migration of nationals of the State party, in particular women and unaccompanied children, including through multilateral and bilateral agreements, policies and programmes aimed at enhancing legal migration channels and at addressing the root causes of irregular migration. Please include information on how such measures have been mainstreamed in overall migration policies and programmes and whether there has been a reduction in the number of irregular migrants as a result of such measures.

### Article 67

33. Please provide information on cooperation programmes in place between the State party and relevant States of employment for the voluntary return of migrant workers and members of their families to the State party when they decide to return or when they are in the State of employment in an irregular situation. Concerning migrant workers in a regular situation, please provide information on cooperation programmes between the State party and relevant States of employment on promoting adequate economic conditions for resettlement and reintegration in the State party, including development assistance.

34. Please also describe the measures taken to promote conditions that facilitate the reception and reintegration of migrant children and their families upon their return to the State party. Please provide information on measures taken by the State party to protect children in a street situation and to provide them with adequate care in the absence of their parents.

**Article 68**

35. Please provide information on the measures taken by the State party, including through international, regional and bilateral cooperation with countries of origin, transit and destination, to prevent and combat trafficking in persons, in particular women and children, including by systematically compiling disaggregated data and bringing perpetrators of trafficking in persons to justice. Please also provide updated information on the number of cases of trafficking reported to the Anti-Trafficking in Persons Unit, investigations, prosecutions and the sentences imposed on perpetrators. Please indicate the measures taken to ensure the effective implementation of the Prevention of Trafficking in Persons Act (2011). Please also indicate whether the crisis centre established for victims of trafficking provides them with medical care and mental health counselling, financial assistance, housing, training opportunities and legal services.

36. Please provide information on the measures taken by the State party to prevent and eliminate trafficking in migrants, in particular women and children, as well as measures adopted to reduce the demand for commercial sex acts and forced labour. Please also provide information on the scope of the national action plan developed by the ministerial-level national anti-trafficking taskforce for 2016-2019, including whether the plan envisages anti-trafficking training or guidance for law enforcement personnel, judicial officials, social workers, health-care providers and border guards.

37. Please provide information on prevention campaigns aimed at countering misleading information relating to emigration and raising awareness among nationals of the State party, including unaccompanied children, about the dangers of irregular migration. Please also provide information on cooperation efforts with countries of transit and destination, with a view to ensuring the safety of the State party's migrant workers abroad, including migrant children, whether accompanied or not, in transit through third States and upon arrival in the countries of destination.

## Section II

38. The Committee invites the State party to provide information (in no more than three pages) regarding the protection of migrant workers and members of their families with respect to the following:

(a) Bills or laws, and their respective regulations;

(b) Institutions (and their mandates) or institutional reforms;

(c) Policies, programmes and action plans covering migration, and their scope and financing;

(d) Recent ratifications of human rights instruments and other relevant instruments, including the ILO Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the ILO Domestic Workers Convention, 2011 (No. 189);

(e) Recent comprehensive studies on the situation of migrant workers and members of their families.

## Section III

**Data, official estimates, statistics and other information, if available**

39. Please provide, if available, updated disaggregated statistical data and qualitative information for the past three years, unless indicated otherwise, on:

(a) The volume and nature of migratory flows to and from the State party since the Convention entered into force in the State party;

(b) Migrant workers in detention in the State party and migrant workers who are nationals of the State party and are detained abroad in States of employment, and whether such detention is immigration-related;

(c) Migrant workers and members of their families who have been expelled from the State party;

(d) The number of non-accompanied migrant children or migrant children separated from their parents in the State party;

(e) Remittances received from nationals of the State party working abroad;

(f) Reported cases of trafficking in and smuggling of migrants, investigations, prosecutions and sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking);

(g) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals working abroad or in transit through third States.

40. Please provide any additional information on any important developments and measures to implement the Convention relating to the protection of the rights of migrant workers and members of their families that it considers a priority, including whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

41. Please submit an updated core document in line with the harmonized guidelines on reporting (HRI/GEN/2/Rev.6). In accordance with General Assembly resolution 68/268, paragraph 16, the common core document should not exceed 42,400 words.

42. The Committee may take up all aspects of the rights of migrant workers and members of their families in the Convention during the dialogue with the State party.